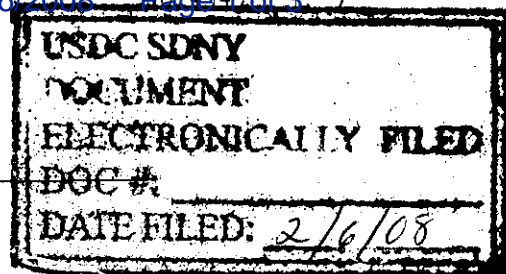
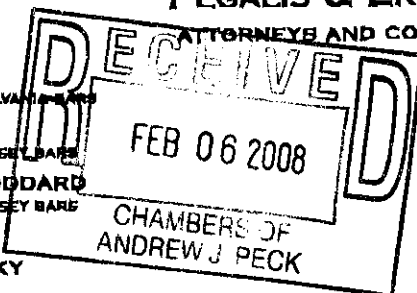


RE

PEGALIS & ERICKSON, LLC  
ATTORNEYS AND COUNSELORS AT LAW

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NURSE CONSULTANT

February 6, 2008

VIA FACSIMILE - 212-805-7933

Hon. Andrew J. Peck  
United States Magistrate Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street, Suite 1370  
New York, New York 10007

MEMO ENDORSED *pc*

Re: Sakif v. United States of America  
06 CV 2719

Dear Justice Peck:

As you may recall, you dismissed this case without prejudice, so that plaintiff could pursue the action in state court. The United States Department of Health & Human Services declined to certify as federal employees, Bronx Lebanon Hospital personnel with regard to involvement in the case. Originally the matter was brought in state court, but removed because the Department of Health & Human Services certified that they were employees.

Discovery is underway in the state court action, but Aaronson, Rappaport, Feinstein & Deutsch has been unable to obtain the original Bronx Lebanon Hospital records from the U.S. Attorney's office. In response to my request that the U.S. Attorney's office provide hospital counsel with the pertinent records, Matthew Schwartz of the U.S. Attorney's office has refused and requested that plaintiff sign a consent dismissing the federal case with prejudice, or, in the alternative, sign a waiver of any claims against the United State government. Plaintiff cannot, and will not, sign any such stipulation. The refusal of the U.S. Attorney's office to turn over these records is needlessly delaying pretrial

**PEGALIS & ERICKSON, LLC**

Honorable Andrew J. Peck  
Page 2  
February 6, 2008

proceedings in the Supreme Court action. Clearly the records of Bronx Lebanon Hospital are the property of Bronx Lebanon Hospital and as such, the records should be in the possession of Bronx Lebanon Hospital and/or its representatives, Aaronson, Rappaport, Feinstein & Deutsch.

I am requesting that you assist in the resolution of this matter and I thank you in advance for your assistance. If you have any questions, please do not hesitate to contact me.

Very truly yours,

PEGALIS & ERICKSON, LLC

*Rhonda L. Meyer*  
Rhonda L. Meyer

RLM:bc

cc: Gary Dwyer - via facsimile 212-227-6050  
Dwyer & Taglia  
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Matthew L. Schwartz - via facsimile 212-637-2750  
Assistant United States Attorney  
Southern District of New York  
86 Chambers Street, 3<sup>rd</sup> Floor  
New York, New York 10007

**MEMO ENDORSED** 2/6/08

*Either the USAtty's office should return the  
originals to Mr. Weiss or send him a  
copy for his files, or - if it's not - the state  
court should - produce copies and keep the originals.*

SO ORDERED:

*Andrew J. Peck*  
Hon. Andrew J. Peck  
United States Magistrate Judge

**BY FAX**

# FAX TRANSMITTAL SHEET



**ANDREW J. PECK  
UNITED STATES MAGISTRATE JUDGE  
UNITED STATES DISTRICT COURT**

Southern District of New York  
United States Courthouse  
500 Pearl Street, Room 1370  
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933  
Telephone No.: (212) 805-0036

**Dated:** February 6, 2008

**Total Number of Pages:** 3

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Gary J. Dwyer, Esq.	212-227-6050
Jonathan Meister, Esq.	212-593-6970

## **TRANSCRIPTION:**

### **MEMO ENDORSED 2/6/08**

**Either the U.S. Attorney's Office should return the originals to Bronx Lebanon's counsel, keeping a copy for its files, or - if the parties in the state court case stipulate - provide copies and keep the originals.**